

REMARKS

This papers responds to the Office Action dated April 22, 2004. A diligent effort has been made to respond to the objections and rejections set forth therein, and reconsideration is respectfully requested.

Claims 12, 15, 16 and 26 have been cancelled to reduce the remaining issues in this application. Claims 1-11, 13-14, 17-25 and 27-31 remain pending in the application.

A variety of rejections were presented in the April 22, 2004 Office Action. Most of these rejections, however, must be withdrawn because they are based upon a reference – WO 03/021922 – which is not prior art to the present application under section 35 USC 102, or because they simply lack any reasoning to support the rejections. The remaining rejections over the other prior reference, EP 0969641, must also be withdrawn because the reference does not provide the necessary teaching to anticipate or render obvious the claims as presently amended.

Turning first to WO 03/021922 (“Schon”), this reference is a PCT application filed on August 21, 2002, which claims priority to an EP application (01203360.1) filed on September 6, 2001 and also claims priority to a US provisional application (60/318,782) filed on September 13, 2001. The present application, however, claims priority to US provisional application 60/254,955, filed on December 12, 2000, prior to any of the priority dates claimed in WO 03/021922. Therefore, the reference WO 03/021922 is not prior art to the present application under 35 USC 102, and all of the rejections based upon this reference must be withdrawn. Thus, the 102 rejection at paragraph 3, and the 103 rejections at paragraphs 5-8 to the extent that the rejections are based in whole or in part on WO 03/021922, must be withdrawn.

In addition, the 103 rejections at paragraphs 6, 7 and 8 should be withdrawn. These rejections are vague and confusing. For example, the rejection at paragraph 6 purports to reject claims 14-15 under 35 USC 103(a) over Romao in view of Schon, but there is no reasoning whatsoever to support the rejection. This is clearly improper. Then, in paragraphs 7 and 8, the rejections indicated that certain claims are unpatentable under 35 USC 103 over Romao, or Schon, or the combination of Schon and some other reference. The reasoning, however, then goes on to discuss both Romao and Schon in view of the other reference, it does not explain how Romao or Schon individually would render the claims at issue unpatentable. These rejections should be withdrawn.

Finally, applicants traverse the 102(b) rejections over EP 0969641. All of the independent claims include a protective cover having a protective surface that is at least partially transparent. For example, in claim 1, the protective surface is transparent to enable viewing of information displayed on the touch screen while the protective cover is in the first position. The first position being when the protective cover is closed over the device top surface where the display is located. Some of the claims – claim 10 for example -- also provide for the protective surface to have “apertures” or holes to enable a user to input data or make selections while the protective surface is closed.

The reference applied by the Examiner – EP0969641 – shows a protective cover 14 having apertures 16, but there is no showing in the drawing figures that would indicate that the cover is partially and/or fully transparent. Without this teaching the reference cannot anticipate the presently amended set of claims under 35 USC 102. Thus, the 102 rejections should be withdrawn, as should the remaining 103 rejections to the extent that the Examiner is maintaining any of those in view of the remarks above concerning the Schon reference.

Respectfully submitted,

JONES DAY

A handwritten signature in black ink, reading "David B. Cochran". The signature is written in a cursive style with a large, sweeping "D" and "C".

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